IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1144 OF 1991

Kolhapur Steel Limited & Anr. : Petitioners

V/s.

Maharashtra State Electricity Board & Ors.: Respondents

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Mr.A.Y.Sakhare with Mr.A.S.Nevagi for the petitioners.

Mr.P.P.Chavan i/b. M/s.Little & Co., for respondent nos.1 & 2.

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CORAM : S.A. BOBDE, J.

June 8, 2005.

P.C.:

1. The petitioners have challenged the supplementary bill of electricity for the month of August 1989 issued by the Superintending Engineer (KC) on behalf of the Chief Engineer, MSEB. It appears that the supplementary bill was raised in pursuance of an Officer of the MSEB having taken inspection of the electrical installations of the petitioners on 31.8.1989. It appears that certain parts of the electrical installations were found to have been tampered with according to the officer of the respondents. In fact, it appears from a statement made by one S.A.Pise,

an Officer of the petitioners that the seal of the H.T. meter and Maximum Demand indicator were tampered with. Normally, in view of this statement, the petitioners would not have been entitled to any relief. However, petitioner no.2 has, in an affidavit-in-rejoinder clearly stated that the respondent MSEB found, after testing, that the meters confiscated were in a good condition thereby implying that they were not tampered with. This is not controverted. It is difficult to conclude this controversy on facts, since it is not possible to ascertain whether there was any theft of electricity merely because the meters have been found to be in a good condition. Indeed, it would not be possible for this Court to determine a controversy of this nature.

2. In the circumstances, having regard to the fact that the petitioners have paid almost the entire supplementary demand raised by the respondents, it would serve the interest of justice if the respondents afford a hearing to the petitioners before confirming the supplementary demand and appropriating the amount finally.

3. Mr.Chavan, learned counsel counsel for respondent nos.1 and 2, states that a bifurcation of the MSEB is on the anvil and it is not clear who would be the competent

authority as regards a matter of this nature. In the circumstances, the respondents are directed to issue a notice to the petitioners through the competent authority who is to decide the dispute and afford an opportunity to the petitioners to show cause as to why the demand raised in the supplementary bill should not be confirmed.

4. The petition is allowed to this extent. The rule is made absolute in the aforesaid terms. No order as to costs.

Sd/-

S.A. BOBDE, J.